

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
Civil No. 18-1285 (DSD/DTS)

Melissa Ramirez,

Plaintiff,

v.

**ORDER**

Portfolio Recovery Associates, LLC  
and Rodenburg LLP,

Defendants.

Anthony P. Chester, Esq. and Hyde & Swigart, 120 South 6<sup>th</sup> Street, Suite 2050, Minneapolis, MN 55402, counsel for plaintiff.

Margaret Ann Santos, Esq. and Hinshaw & Culbertson LLP, 333 South 7<sup>th</sup> Street, Suite 2000, Minneapolis, MN 55402, counsel for defendant Portfolio Recovery Associates, LLC.

Clifton G. Rodenburg, Esq. and Rodenburg Law Firm, P.O. Box 2427, Fargo, ND 58108 for defendant Rodenburg, LLP.

This matter is before the court upon the motions to dismiss by defendants Portfolio Recovery Associates, LLC (PRA) and Rodenburg LLP. Based on a review of the file, record, and proceedings herein, and for the following reasons, the motions are granted.

**BACKGROUND**

This dispute arises out of defendants' failure to pay a filing bond when they commenced a debt-collection action against plaintiff Melissa Ramirez in Minnesota state court.

In November 2017, PRA acquired a \$503.99 debt Ramirez allegedly owed to Community Bank-Herbergers. Id. ¶ 25. PRA subsequently hired Rodenburg to collect the debt from Ramirez. Id. ¶ 27.

In December 2017, defendants initiated a Minnesota state court action against Ramirez, seeking to recover the debt. Id. ¶ 28. Defendants did not post a cost bond with the Minnesota court administrator prior to serving Ramirez with a summons and complaint in the debt action as required by Minn. Stat. §§ 549.18, 549.19. Id. ¶ 29.

On May 8, 2018, Ramirez commenced this action against defendants, alleging that their failure to post a bond in the state court action violated several provisions of the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. §§ 1692d, 1692e, 1692e(10), 1692e(2)(A), 1692e(6), and 1692f. Id. ¶¶ 50-56.

Defendants now move to dismiss Ramirez's complaint, arguing that Ramirez lacks standing and has failed to state a plausible claim on which relief can be granted. Defendants also assert that the Minnesota bond statutes are unconstitutional.

#### **DISCUSSION**

On September 21, 2018, Judge Paul A. Magnuson of this district granted PRA's and Rodenburg's motions to dismiss FDCPA claims in two materially identical cases. See Blake v. Portfolio Recovery

Associates, LLC, and Rodenburg LLP, 18-cv-1028 (D. Minn. Sept. 21, 2018); Bell v. Portfolio Recovery Associates, LLC, and Rodenburg LLP, 18-cv-1027 (D. Minn. Sept. 21, 2018).<sup>1</sup> The court is fully persuaded by Judge Magnuson's reasoning in those cases and similarly concludes that defendants have not violated the FDCPA by their conduct in the state court action.<sup>2</sup> As a result, the court adopts the reasoning and conclusions in Blake and Bell, and dismisses Ramirez's complaint for failure to state a claim on which relief can be granted. Fed. R. Civ. P. 12(b)(6).

#### **CONCLUSION**

Accordingly, based on the above, **IT IS HEREBY ORDERED** that:

1. Defendants' motions to dismiss [ECF Nos. 14, 19] are granted; and
2. The case is dismissed with prejudice.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: September 25, 2018

s/David S. Doty  
David S. Doty, Judge  
United States District Court

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<sup>1</sup> Counsel in this case were all also involved in those cases and made the same arguments as presented here.

<sup>2</sup> The court is also persuaded by Judge Magnuson's reasoning as to defendants' standing and constitutional challenges.